

FACT SHEET

NPDES CAFO GENERAL PERMIT
LARGE, MEDIUM, & DESIGNATED POULTRY
OPERATIONS WITHOUT LAND APPLICATION

NPDES CAFO Permit No. DE 5000N/11

Large, Medium, & Designated Poultry CAFO's in Delaware that Discharge to Waters of the State shall have a NPDES CAFO discharge permit issued by DNREC under both State and Federal permitting authority.

Total Maximum Daily Loads

Permit requirements are consistent with existing and applicable Total Maximum Daily Loads (TMDLs) for impaired water bodies. The permittee shall continue to implement all BMPs currently in place and shall implement any additional BMPs required by the permittee's AWMP/NMP and this permit. The Department may require additional BMP's to minimize phosphorus and nitrogen transport to Waters of the State as a requirement of this permit. For Large and Medium Poultry CAFOs within the Chesapeake Bay watershed, BMPs have been identified in Delaware's Phase II Watershed Implementation Plan (WIP) as specific production area practices to meet Agricultural Waste Load Allocations (WLAs). Such BMPs may include, but are not limited to: Nutrient Management Compliance; Soil Conservation and Water Quality Plans; Heavy Use Poultry Area Pads; Livestock Waste Structures; Manure Relocation; Poultry Waste Structures; Mortality Composters; Streamside Grass Buffers; Streamside Forest Buffers; Wetland Restoration, and; Shoreline Erosion Control.

Statutory and Regulatory Basis

Section 402 of the federal Clean Water Act, as amended, and Title 7, Delaware Code, Chapter 60, Section 6003, provide the statutory authority for permit issuance. Federal and state regulations promulgated pursuant to these statutes form the regulatory basis for permit issuance. Each CAFO must operate pursuant to the permit and must meet or exceed all standards and guidelines in the DNREC's *Regulations Governing the Control of Water Pollution*, Section 9.5 (CAFO Regulations); the Delaware Nutrient Management Regulations, the Delaware Nutrient Management Law, and each facility's individualized Animal Waste Management Plan (AWMP) or Nutrient Management Plan (NMP). Each facility must operate pursuant to the permit and must meet or exceed all standards and guidelines in accordance with the Animal Waste Management Plan or Nutrient Management Plan as well as any future revisions of its Animal Waste Management Plan or Nutrient Management Plan (NMP) and Delaware's State Technical Standards.

Notice of Intent (NOI)

The Notice of Intent (NOI) submitted by individual CAFOs for consideration of coverage under the General CAFO NPDES permit will be considered incomplete until an Animal Waste Management Plan (AWMP) and/or Nutrient Management Plan (NMP) is submitted to the Delaware Department of Agriculture (DDA).

Topographical Maps

Topographical maps of the CAFO's production area(s) may be reviewed with the NOI application. A hard copy of the topographical map can be obtained from the Departments upon request. Topographic maps can be accessed through online sources such as USGS.gov at the following web address:

<https://apps.nationalmap.gov/downloader/#/>

Implementation and Enforcement of this General NPDES CAFO Permit

In the State of Delaware, the NPDES CAFO program is implemented and overseen jointly by the Department of Natural Resources and Environmental Control (DNREC) and the Delaware Department of Agriculture (DDA), with the cooperation of the Nutrient Management Commission. The U.S. Environmental Protection Agency (EPA) has delegated the legal authority to implement the NPDES permit program under the Clean Water Act in the State of Delaware to the DNREC, which serves as the lead agency for coordination with the EPA. The DDA is the primary initial point of contact with the regulated community: conducting inspections, collecting necessary documents, and reviewing Nutrient and Animal Waste Management Plans. The DDA, with the assistance and concurrence of the DNREC, has developed this permit to meet all necessary requirements. The DNREC, with the assistance of the DDA, will issue this final permit. The Nutrient Management Commission oversees the Nutrient Management Law and Regulations which governs the content of the Nutrient and Animal Waste Management Plans, which are an integral component of the CAFO program.

The DDA will be responsible for conducting inspections of farms covered under this permit to ensure compliance with its requirements. The DNREC retains its inspection authority. The DDA will take the lead in developing and implementing voluntary compliance strategies to bring an operation into compliance when needed. The DNREC will take the lead in developing and implementing compulsory compliance strategies to bring operations into compliance when voluntary measures have not been successful. The DDA will assist the DNREC in its enforcement activities and may act as DNREC's agent. The DNREC will initiate an enforcement action, should the DDA unsuccessfully resolve an enforcement issue.

Description of Discharge

Discharges in the form of manure, litter or process wastewater are permitted, provided that each facility operates its CAFO in accordance with Part I.C. of the attached permit which defines all applicable Effluent Limitations.

Duration of NPDES CAFO Permit

DNREC will issue this NPDES General CAFO permit for a five (5) year period, subject to the Effluent Limitations in the attached permit. In the event that a timely and sufficient reapplication has been submitted and the Department is unable, through no fault of the Permittee, to issue a new permit before the expiration date of this permit, the terms and conditions of this permit are continued and remain fully effective and enforceable.

Proposed Effluent Limitations

Each permittee is authorized to discharge from the facility in accordance with the conditions set forth in this permit, including Part I.C.1 and Part I.C.2 of this permit, from the date noticed of permit coverage, lasting through the expiration date of this General Permit. Violations of any of the following Effluent Limitations may result in enforcement action in accordance with Part II.A.21. of this permit.

1. Large Poultry Effluent Limitation Guidelines (ELG's)
 - a. In accordance with 7 Del. Admin. C. §7201-9.5.6.4.1.1.1 of the CAFO Regulations, there shall be no discharge of manure, litter or process wastewater pollutants to Waters of the State from the production area.
 - b. In accordance with 7 Del. Admin. C. §7201-9.5.6.4.1.1.1.2 of the CAFO Regulations, whenever precipitation causes an overflow of manure, litter or process wastewater, the overflow may be discharged into Waters of the State if:
 - i. The production area is designed, constructed, operated, and maintained to contain all manure, litter, and process wastewaters plus the runoff and direct precipitation from a 25-year, 24-hour rainfall event; and
 - ii. The production area is operated in accordance with the measures and records required in 7 Del. Admin. C. §7201-9.5.5.0 of the CAFO Regulations.
 - c. If the Secretary determines that a discharge from the production area is an "Upset" in accordance with Part II.A.23, the discharge shall not be a violation of the Effluent Limitations in this permit.
2. Medium & Designated Poultry Effluent Limitations
 - a. The permittee shall operate according to all Best Management Practices (BMPs) addressed in the Animal Waste Management Plan (AWMP) and/or the Nutrient Management Plan (NMP) concerning management activities of manure, litter, or process wastewater in accordance with the State Technical Standards.
 - b. If the Secretary determines that a discharge from the production area is an "Upset" in accordance with Part II.A.23, the discharge shall not be a violation of the Effluent Limitations in this permit.

Requirement to Implement Animal Waste Management Plan (AWMP) or Nutrient Management Plan (NMP)

Each permittee must implement its AWMP/NMP in accordance with Part II.A.2. of the attached permit. The AWMP/NMP must address the following nine (9) minimum requirements:

- 1) ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;
- 2) ensure proper management of mortalities (dead animals) to ensure they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;
- 3) ensure that clean water is diverted, as appropriate, from the production area;
- 4) prevent direct contact of confined animals with Waters of the State;
- 5) ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;
- 6) site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to Waters of the State;
- 7) protocols for appropriate testing of manure, litter, process wastewater, and soil;
- 8) establish protocols to land apply manure, litter, or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and
- 9) identify specific records that will be maintained to document the implementation and management of the minimum elements described in this section.

Production Area Definition

Delaware interprets the following clarified definition of Production Area to apply to Medium, Large, and Designated Poultry operations which meet the definition of a CAFO and have a duty to apply for coverage under this General Permit.

As defined in 7 Del. Admin. C. §7201-9.5.6.4 of the CAFO Regulations, the production area means that part of an AFO that includes the “animal confinement area”, the “manure storage area”, the raw materials storage area and the “waste containment areas”, egg washing or processing facility and any area used in the storage, handling, treatment or disposal of mortalities. Animal confinement area includes the areas inside the poultry confinement houses and end pads in accordance with State Technical Standards. Manure storage and waste containment areas include storage sheds, and stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles.

Special Conditions

Special Conditions in National Pollutant Discharge Elimination System (NPDES) permits require facilities to undertake activities designed to reduce the overall quantity of pollutants being discharged to Waters of the State. Special Conditions address unique situations and incorporate preventative requirements to reduce the potential for discharge of pollutants.

There are currently no special conditions applicable with this CAFO NPDES General Permit.

Public Notice and Process for Reaching a Final Decision

The public notice of the Department's General CAFO NPDES permit including all applicable supporting permit documentation was published in the Delaware State News and The News Journal and posted on DNREC's and DDA's websites as well on **Month XX, 2021**. After this General Permit is issued, DNREC intends to then proceed with public noticing groups of completed NOI's that have met all the requirements to be covered under this General Permit. Delaware will continue with this process until all facilities which are required to be under the permit are covered. Interested persons are invited to submit written views on the draft permit and the tentative determination made with respect to this NPDES draft permit. The DNREC will not hold a public hearing on this application unless the DNREC receives a meritorious request to do so or unless the notice of this proposal generates substantial public interest. A public hearing request shall be deemed meritorious if it exhibits a familiarity with the application and a reasoned statement of the permits probable impact. The request for a public hearing shall be in writing and shall state the nature of the issues to be raised at the hearing. All comments received by the close of business on **Month XX, 2021** will be considered by the DNREC in reaching a final decision.

Department Contact for Additional Information

Bryan A. Ashby
Program Manager
Division of Water
Delaware Department of Natural Resources and Environmental Control
89 Kings Highway
Dover, DE 19901
Ph: (302) 739-9946
FAX: (302) 739-8369